

**TO:** Zoning Board of Adjustment  
**FROM:** Community Development Department

**DATE:** October 17, 2017

**RE:** CASE #CU-17-006

**REQUEST:** A conditional use permit to allow for a legal nonconforming use to be changed from a commercial shop to a club, or lodge.

**APPLICABLE**

**CODE SECTIONS:** §15.02.020 - Zoning Board of Adjustment

The Zoning Board shall have the following powers:

D. The zoning board of adjustment shall have the following authority in regard to nonconformities:

1. If no structural alterations are made, any nonconforming use may, as a conditional use, be changed to another nonconforming use, provided that the zoning board of adjustment finds that the proposed use is more appropriated for the district than the existing nonconforming use. In permitting this change, the zoning board of adjustment may require appropriate conditions consistent with Chapter 15.26.

§15.09 –Zoning Requirements of the R-2/Two-Family Residential District.

**LEGAL**

**DESCRIPTION:** Lot 18, Block 11, Evans 2<sup>nd</sup> Bridge Addition, Pottawattamie County, IA

**LOCATION:** Generally located at 3000 Avenue B

**APPLICANT:** Kanesville Riders Honor Guard, Inc., 3000 Avenue B, Council Bluffs, IA 51501

**OWNERS:** Kanesville Riders Honor Guard, Inc., 3000 Avenue B, Council Bluffs, IA 51501

**REPRESENTATIVE:** Steven H. Krohn, Smith Peterson Law Firm LLP, 133 West Broadway P.O. Box 249, Council Bluffs, IA 51503

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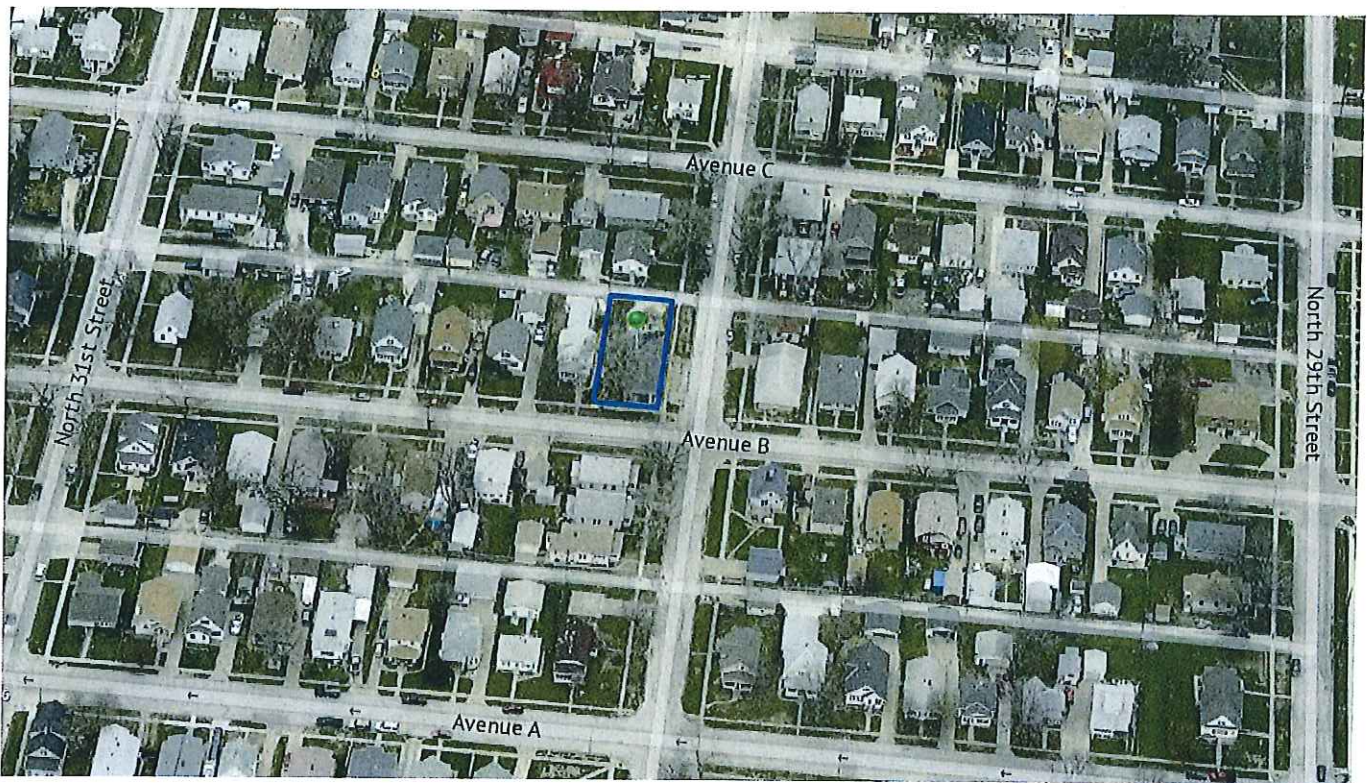
**BACKGROUND INFORMATION** – The Community Development Department has received an application from the Kanesville Riders Honor Guard, Inc. for a Conditional Use Permit to be changed from one nonconforming use (commercial shop) to another nonconforming use (club or lodge). The building is currently located in an R-2/Two-Family Residential District, and has previously housed a number of commercial businesses, including a floral shop. The Kanesville Riders Honor Guard is a group that provides military honors at the funerals of veterans, as well as hosting group meetings and counseling sessions to those suffering from post-traumatic stress disorder. The Kanesville Riders Honor Guard are proposing to use the building as meeting hall, with the intention of hosting group meetings and counseling sessions, as well as training sessions for the military funeral honors ceremonies. The Plan of Operation states that the organized club meetings are scheduled for once a month in the evenings, with approximately 15-20 individuals in attendance, support group meetings will be held primarily in the evenings, with approximately 10 individuals in attendance, and training sessions will be held during evenings and weekends with on at least two occasions each month.

The following case attachments are included with this report:

- Attachment A: Case Map
- Attachment B: Plan of Operation, as submitted by the applicant
- Attachment C: Site plan
- Attachment D: Site Photos

**CURRENT ZONING AND LAND USE** – The subject property is zoned R-2/Two-Family Residential, as are the properties in the immediate vicinity. There is R-3/Low-Density Multifamily Residentially zoned areas located approximately 180 feet south of the property, and C-2/Commercial zoned property located over 300 feet to the south. The entirety of the one-block radius surrounding the subject property has a residential primary use.

**Exhibit A: 2016 Pictometry image of the subject property and surrounding area.**



The future land use plan of the Bluffs Tomorrow: 2030 Plan (comprehensive plan) designates the subject property as Low Density Residential. The Low Density Residential designation would have been applied to this area based on the predominant use of the area.

The proposed use of a club or lodge would be a permitted use in a commercial district, however, the proposed location of this club or lodge has been a legal nonconforming, used as a floral shop for many years. Legal nonconforming uses are allowed to exist as long as they are not being enlarged, repaired to greater than fifty (50) percent of replacement cost, or abandoned for greater than six months. Because

there is no evidence of the structure being abandoned for greater than six months, there are no submitted plans to enlarge the structure, and interior renovations are not expected to exceed fifty percent of the appraised value, a change in a legal nonconforming use is allowed with the approval of this Conditional Use Permit.

**CITY DEPARTMENTS AND UTILITIES** – All City departments and local utility providers were notified of the proposed conditional use permit request. The following comments were received:

Mid-American Energy Company stated they have no objection to the proposed request.

Council Bluffs Building Division stated their only comment was that the occupant load of the building has been calculated, and is not in excess of 50 people, meaning the Occupancy Classification is not increasing.

Public Works Department:

1. Off street parking must be provided, and must meet current standards and specifications.
2. Fences should be located at the property line or on the privately owned property.

Community Development Department:

1. A 'club or lodge' use is defined in Section 15.03.155a, *Definitions, Club or Lodge* of the Council Bluffs Zoning Ordinance as "a use providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members. Typical uses include social clubs and fraternal organizations." The Meeting Hall the applicants are proposing would fall under this definition.
2. The applicants have indicated that the back portion of the lot will be fenced in, and gravel will be installed in order to provide space for picnics and training exercises. There shall be no parking or storage on the gravel surface.
3. All proposed fencing shall comply with the standards stated in Section 15.24.040, *Fence regulations* of the Council Bluffs Zoning Ordinance.
4. All outdoor lighting shall comply with the standards stated in Section 15.24.050, *Lighting controls* of the Council Bluffs Zoning Ordinance.
5. All signage shall be permitted separately prior to installation and shall comply with Chapter 15.33, *Signs* of the Council Bluffs Zoning Ordinance.

**NEIGHBORHOOD RESPONSE** – All property owners within 200 feet were notified of the conditional use permit request. The following phone calls were received:

Carla Limmer stated she was not against the proposal, but has concerns regarding parking in the neighborhood.

Kimberly Adland, 3006 Avenue B, Council Bluffs, IA 51501, is concerned about the noise from the club or lodge, parking around the building, and the potential for adverse effects on property values. She states there was never any issues when the building was a floral shop, but sees the potential for increased traffic and noise as more individuals are using the building at any one time as being an issue.

## COMMENTS

§15.02.090 Conditional Uses: The development and execution of the Ordinance (Title 15) is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized,



however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090.E (Findings of Fact).

The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefited by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below *in italics*:

1. The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations and all other standards or conditions contained in the provisions authorizing such use. *The subject property does not meet the required corner lot width, and the building does not meet front and street side yard setback requirements, but the building is allowed to exist as a legal nonconforming use. The current use as a commercial shop, and the proposed use as a club or lodge is not consistent with the Zoning Ordinance, however, as outlined in Section 15.02.020(D)(1), a nonconforming use may, as a conditional use, be changed to another use, provided the Zoning Board of Adjustment finds that the proposed use is more appropriate with the district than the existing nonconforming use. Due to the primary use being regularly scheduled meetings, and small group meetings, the use will be less intensive than the constant traffic that may come from a retail use.*
2. Adequate utility, drainage and other necessary facilities or improvements have been or will be provided. *Adequate utilities (e.g., public water, stormwater and sanitary sewer, electricity) are available at this location for the proposed use. Stormwater for the proposed use shall be managed in accordance with all Public Works Department requirements. Any future cost to extend, modify or otherwise relocate any public utilities/facilities shall be at the cost of the owner/applicant and not the financial responsibility of the City of Council Bluffs.*
3. Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys. *All proposed parking areas must be designed and installed in accordance with the standards stated in Chapter 15.23, Off-Street Parking, Loading and Unloading of the Council Bluffs Zoning Ordinance. The proposal is not anticipated to create any addition traffic strain on the surrounding streets.*
4. All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly appears that such permits are obtainable for the proposed conditional use on the subject property. *The applicant shall obtain all required building, driveway, parking lot and storm water permits from the City prior to commencing any development activity on the subject property. All proposed signage shall receive a sign permit from the City prior to installation.*

5. All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties. *The use shall comply with Section 15.24.050, Lighting Controls, of the Council Bluffs Zoning Ordinance. There were no additional lighting features included in the submitted site plan.*
6. The location and size of the conditional use, the nature and intensity of the activities to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located. *In the Plan of Operation that was submitted by the applicant, a tentative schedule of meetings, and size of groups attending those meetings is stated. If the applicant is able to provide off street parking for those attending meetings and sessions as this building, there will be minimal additional strain over the currently allowed use. While the use would be considered to be legally nonconforming, it would be allowed to exist as Outlined in Section 15.02.020(D)(1) of the Council Bluffs Zoning Ordinance.*
7. The location, nature and height of buildings, structures, walls and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use and enjoyment of the adjacent land, buildings and structures. *The applicant is not proposing any additions to the existing building, other than an ADA access ramp. Even though the building is nonconforming, it is allowed to exist, subject to the standards of Chapter 15.26, Nonconformities, of the Council Bluffs Zoning Ordinance. Any fencing proposed to be installed shall comply with the standards stated in Section 15.24.040, Fence regulations, of the Zoning Ordinance.*
8. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public. *If developed in full compliance with adopted City requirements the proposed request is not anticipated to have a negative impact on property values for existing or future land uses in the surrounding area.*

## RECOMMENDATION

The Community Development Department recommends approval of the request of the Kaneshville Riders Honor Guard, Inc., represented by Steven H. Krohn of Smith Peterson Law Firm, LLP to allow for a nonconforming use (commercial shop) to be changed to another nonconforming use (club or lodge) as provided for by Section 15.02.020(D)1 and Section 15.26.030(4), at property legally described as Lot 18, Block 11, Evan's Second Bridge Addition. Location: 3000 Avenue 'B'. The approval is subject to the following conditions:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.
2. All site development shall comply with all applicable Fire and Building Code(s) requirements.
3. All outdoor storage areas, off-street parking, driveways and drive aisles shall be hard-surface paved with asphalt or concrete cement and shall be designed to comply with the standards stated in Chapter 15.23, *Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
4. All required off-street parking and handicap parking spaces for the commercial storage use shall be provided in accordance with the standards stated in Section 15.23.060, *Parking space required*, of the Council Bluffs Zoning Ordinance.
5. All exterior lighting shall comply with the standards stated in Section 15.24.050, *Lighting Controls*, of the Council Bluffs Zoning Ordinance.

6. All signage shall comply with the standards in Chapter 15.33, *Signs*, of the Council Bluffs Zoning Ordinance.
7. All costs to construct, remove and/or relocate any utilities for the proposed development shall be the responsibility of the applicant and not the City.
8. All proposed fencing shall comply with the standards stated in Section 15.24.040, *Fence regulations* of the Council Bluffs Zoning Ordinance.
9. There is to be no outdoor storage on the property, even within a fenced area.
10. The hours of operation must remain consistent with the Plan of Operation that was submitted with the application. All meetings, training sessions, group sessions, and any other activities conducted out of this location shall take place between the hours of 8:00 AM and 9:30 PM.



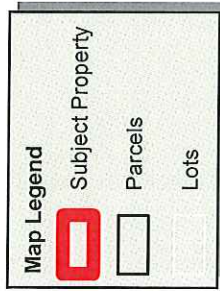
Rose E. Brown, AICP  
Planning Coordinator



Chris Meeks  
Planner



# CITY OF COUNCIL BLUFFS -ZONING BOARD OF ADJUSTMENT LOCATION/ZONING MAP CASE # CU-17-006



2016 Aerial Photograph



Note: Subject property is outlined in red.



Last Amended: 9/7/17

Council Bluffs Community  
Development Department  
209 Pearl Street  
Council Bluffs, IA 51503  
Telephone: (712) 328-4629

**DISCLAIMER**  
This map is prepared and compiled from various sources. Users of this map are advised that the City Department does not warrant all of the City Department's information contained on this map is current. The user should verify the information for the information contained on this map is current. The user should verify the information for the information contained on this map is current.





## PLAN OF OPERATION

Federal law mandates that Military Funeral Honors be provided to all eligible veterans but because of limitations on the availability of members of the Armed Forces, the honor is in many cases not provided.

One of the main activities of Kanessville Riders Honor Guard, Inc. is to provide Military Funeral Honors for veterans, free of charge. The organization is recognized by the Department of Defense as an authorized provider of Military Funeral Honors. The individuals associated with the organization perform the 21-gun salute, fold the American flag and present the American flag to the next of kin and other funeral related functions if requested.

No funerals will be held at the property.

The equipment and uniforms for ceremonies will be stored at the property.

The individuals associated with the organization meet on the third Thursday of every month from approximately 7:00 P.M. to 9:30 P.M. Approximately 15-20 individuals typically attend these meetings.

Also, special training sessions are held as necessary at least two days each month to practice the honors ceremony and to train any individuals who are newly associated with the organization. These training sessions are held either during the evening or during the day on weekends.

There will be no firearms discharged at the meeting or at the training sessions.

Another activity of the group that will be held at the property are support group meetings for person suffering from posttraumatic stress disorder (PTSD). These meetings are for veterans, persons involved in law enforcement, firemen and others and their spouses where they can discuss day-to-day problems with other people who have been through trauma. The support group provides a sense of connection to other people facing the same issues and can help veterans cope with memories of the trauma or other parts of their lives that they are having trouble dealing with as a result of the event.

These meetings are held usually during the evening at various times as necessary. The size of the meetings typically involve at most 10 individuals.

Also during the daytime or evening, counseling will be held for individuals suffering from PTSD. The counseling sessions typically will involve at most 10 individuals.

Another activity contemplated is to provide space for local law enforcement to write their reports. It is contemplated that if local law enforcement desire to do so, an area of the building will be set aside for the exclusive use of local law enforcement to complete their paperwork.



Parking is available on the property for seven cars. One of the spaces will be designated for handicapped parking.

The organization does not contemplate having any employees.

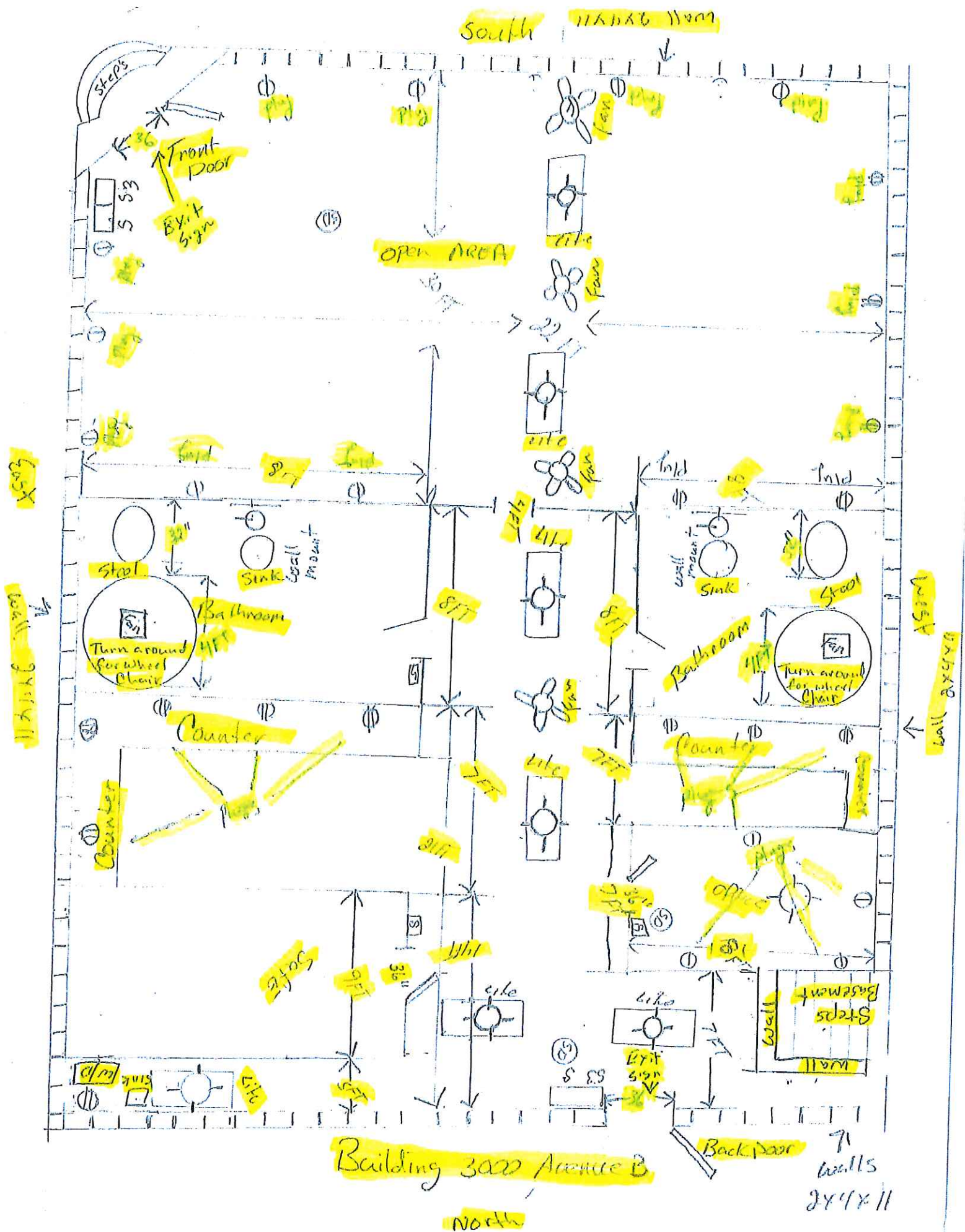
The access to the building is either through the front door on the Southeast corner of the building or through the rear door which is handicapped accessible.

The plans for signage are not fully developed. Currently, the signage that is contemplated is to put the name of the organization on the front door of the building.

The lighting on the building that is planned are can down lights on the East and West sides of the building.

South







## Attachment D

### Site Photos



Front of the Building (Facing Northwest)



Facing West



Facing East



Rear of the Building (Facing South)